

### C. Remarks

The claims are 1-3, 5, 7-9, 11-15, 17-23, 25-28, 31 and 32, with claims 1, 2, 17-20, 31 and 32 being independent. The independent claims have been amended to better define the present invention. Support for this amendment may be found throughout the specification, the drawings and the claims, for example, at pages 30-33 and in Figs. 8A-C and 21A-C. Claims 7 and 9 have been amended to reflect the changes in claim 1. No new matter has been added. Reconsideration of the present claims is expressly requested.

Claims 30 and 32 stand rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by WO 99/18456 (Berge). Claims 1-15, 17-28 and 30-32 stand rejected under the judicially created doctrine of obviousness-type double patenting as being allegedly unpatentable over claims 1-20 of U.S. Patent No. 6,449,081 B1 (Onuki) in view of Berge. These rejections are respectfully traversed.

Prior to addressing the merits of rejection, Applicants would like to briefly review some of the key features and advantages of the presently claimed invention. The present invention is directed to various optical devices containing an optical element in which two immiscible liquids with different transmittances are placed in a container so that a boundary is formed between the liquids. The boundary surface or shape is affected by an interfacial force between the two liquids, interfacial forces between the two liquids and the inner surface of the container, a ratio of quantities of both liquids, etc. When the two liquids are placed in the container and no voltage is applied through the electrode, an angle ( $\theta$ ) formed by a boundary surface between the two liquids and the side surface of the container is substantially constant (Fig. 8A). Applicants have discovered that if the side

surface of the container is inclined, the radius of the curvature of the boundary between the two liquids increases, making it possible to reduce the thickness of the optical element in the direction of the optical axis. In fact, it is possible to make the boundary surface substantially flat (Fig. 8B).

Berge is directed to a variable focus lens. This reference discloses a chamber filled with a first liquid and a drop of a second liquid disposed at rest on a region of a first surface of an insulating wall of the chamber. The first and second liquids are not miscible, have different optical indexes and are of substantially the same density. The first liquid is conductive and the second liquid is insulating. The lens further comprises a means for applying a voltage between the conductor liquid and an electrode placed on the second surface of said wall.

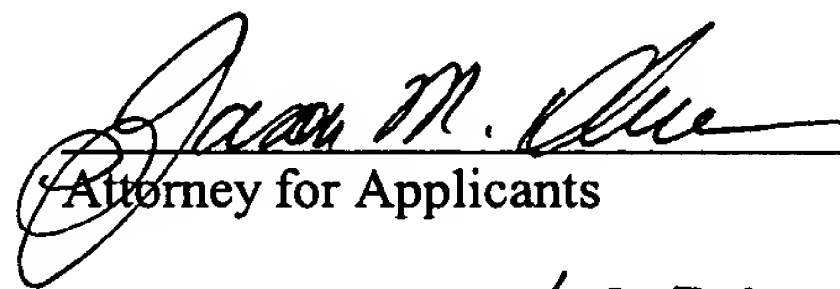
While Berge discloses two liquids and an electrode, it, however, fails to disclose or suggest that the side surface of the chamber is inclined. The teachings in this reference cannot be used to achieve the advantages of the present invention, such as reduction in thickness. Clearly, Berge cannot affect the patentability of the presently claimed invention

Onuki is directed to an optical element. However, like Berge, the claims in this patent do not disclose or suggest inclining the side surface of the container. Accordingly, the present claims are clearly not a double patenting of the claims in Onuki.

Wherefore, it is respectfully requested that the outstanding rejections be withdrawn and the subject application be passed to issue.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

  
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